

Concord Court NH CIRCUIT COURT - Reference: State v. A MARPLE Case Number 429-2014CR-00153

## AFFIDAVIT OF TRUTH - IN COMMERCE - SECOND DEMAND

### NOTICE OF INSTRUCTION PURSUANT TO ARTICLE 32 NEW HAMPSHIRE BILL OF RIGHTS.

U.S. v. Kis, 658 F.2d 526, (7th Cir. 1981) *"Indeed, no more than that is necessary to make the prima facie case."* Id at 536.

Addressed and delivered to the below named Libellees in their official and individual personal capacities as Trustees of the people, to whom a Fiduciary relationship is contracted by THEIR OATH and for whom they must promptly act. Libellees listed in this document admit to the truth and guilt of having been NOTICED that Affiant had formally accepted Libellees Oaths of Office and to the Constitutions, as by-laws, and acceptance of their offers to contract, thus creating said binding contract, under Oath, to provide all protection of Constitutional Secured Rights on behalf of this Affiant

RECEIVED

Hon. M. Kristin Spath, Magistrate  
Theresa A. McCafferty, Clerk of Court  
6th Circuit - District Division - Concord  
32 Clinton Street Concord, NH 03301

MAR 28 2017

NEW HAMPSHIRE  
DEPARTMENT OF STATE

Now comes the Affiant, A. Richard: Marple, Sui Juris, an Article 30 Part II "Inhabitant" who has firsthand knowledge of all of the facts enumerated within this Affidavit. Affiant places his full Commercial Liability on the record and makes his common law claim to the Libellees for damages and settlement, now on the record. Affiant is a non-corporate, natural born creation of GOD; a living breathing being, on the soil, Sui Juris, with clean hands and hereby NOTICES this court of FATAL DEFECTS and ERRORS in the "presentment styled; An "Order" asserting Notice of Jurisdiction over the signature of libellee Kristin Spath, which is not accepted and is returned for correction pursuant to the authority of, RSA 392 A 3-501 which requires the unknown accuser or "holder-in-due-course" to display the "instrument" or "contract" purportedly signed by this Affiant and which would give basis to the jurisdiction being asserted. If No "instrument" can be presented there can be no jurisdiction. The Clearfield Doctrine will prevail. Further; the Constitution that all public servants take an OATH to maintain, enumerates in Article III, Section 2; *"trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed."* Affiant placed upon the record his OATH Purgatory clearly establishing he is an American sovereign and not a corporate "person" and has; by previous Article, 32 "Instructions" demanded that the above captioned case be DISMISSED with prejudice for lack of jurisdiction. *"Once jurisdiction is challenged, the court cannot proceed when it clearly appears that the court lacks jurisdiction, the court has no authority to reach merits, but, rather, should dismiss the action."* Melo v. US, 505 F2d 1026. *"The law requires proof of jurisdiction to appear on the record of the administrative agency and all administrative proceedings."* Hagans v Lavine, 415 U. S. 533. The mere assertion made by a corporate magistrate is an *"Abuse of Discretion"*, Oles v. State, 993 S.W.2d 103,106 (Tex.Crim.App.1999) and the requirements of Title 5 USC 556(d) are not met. Further, "Federal Law and Supreme Court Cases apply to State Court Cases." Griffin v. Mathews, 310 Supp. 341, 423 F. 2d 272; Howlett v. Rose, 496 U.S. 356 (1990). *"The police power of the state must be exercised in subordination to the provisions of the U.S. Constitution."* (Bacahanan vs. Wanley, 245 US 60; Panhandle Eastern Pipeline Co. vs. State Highway Commission, 294 US 613. *"Every State law must conform in the first place to the Constitution of the United States, and then to the subordinate constitutions of the particular state; and if it infringes upon the provisions of either, it is so far void."* Houston v. Moore, 18 US 1, 5 L.Ed 19 (1840) *"Should any state convert a secured liberty right into a privilege, charge a fee and issue a license for it, one may ignore the license and fee and engage in the exercise of the right with impunity"* Shuttlesworth vs City of Birmingham 373 U.S. 262 (1962) *"No one is bound to obey an unconstitutional law... Indeed insofar as a statute runs counter to the fundamental law of the land, it is superseded thereby... An unconstitutional law cannot operate to "supersede any existing law... A void act cannot be legally consistent with a valid one."* Bonnett v. Vallier, 116 N.W. 885, 136 Wis. 193 (1908); Norton v. Shelby County, 118 U.S. 425 (1886)); *Should any state convert any right to work into a privilege, issue a license and charge a fee, the same is unconstitutional, null and void, bears no obligation to obey, and is without effect in law.* (Marbury vs Madison 5 US 137 (1803) Hale v. Henkel, 201 U.S. 43; *"The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no*

duty to the state or to his neighbors to divulge his business, or to open his doors to an investigation, so far as it may tend to criminate him. He owes no such duty to the state, since he receives nothing therefrom, beyond the protection of his life and property. His rights are such as existed by the law of the land long antecedent to the organization of the state, and can only be taken from him by *due process of law*, and in accordance with the Constitution. Among his rights are a refusal to incriminate himself, and the immunity of himself and his property from arrest or seizure except under a warrant of the law. He owes nothing to the public so long as he does not trespass upon their rights." Further, "Every State law must conform in the first place to the Constitution of the United States, and then to the subordinate constitutions of the particular state; and if it infringes upon the provisos of either, it is so far void." **Houston v. Moore, 18 US 1, 5 L.Ed 19 (1840).** "...where any state proceeds against a private individual in a judicial forum it is well settled that the state, county, municipality, etc. waives any immunity to counters, cross claims and complaints, by direct or collateral means regarding the matters involved." *Luckenback v. The Thekla*, 295 F 1020, 226 U.S. 328; *Lyders v. Lund*, 32 F2d 308; *Dexter v. Kunglig J.*, 43 F2d 705, 282 US 896; *U.S. v. N.C.B.N.Y.*, 83 F2d 236, 106 ALR 1235, affirmed; *Russia v. BTC*, 4 F Supp 417, 299 U.S. 563. *This doctrine includes, but is not limited to, challenges to personal, subject matter and territorial jurisdiction, as well as to claims that the forum is not judicial in nature but merely administrative or that the court is proceeding, improperly, against a private individual under the rebuttable presumption that the private individual is a corporate entity or an artificial person upon which the Public Statutes operate.* Furthermore, it is undisputed that the state itself is acting in its capacity as a commercial entity and is liable for damages, as are both Libellees acting as agent for the State." *The state may nevertheless be held liable where the injurious activity was 'proprietary' rather than 'governmental', i.e., where the injury was caused by the state acting in its capacity as a commercial entity rather than that of sovereign."*

## NOTICE

This court, pursuant to Federal Rules of Civil Procedure (FRCP) Rule 4 (j), is, in fact and in law, a FOREIGN STATE as defined in 28 USC §1602, et. seq., the FOREIGN SOVEREIGN IMMUNITY ACT of 1976, Pub. L. 94-583 (hereafter FSIA), and, therefore, lacks jurisdiction in the above captioned case. The above-mentioned "real party in interest," also a FOREIGN STATE, hereby demands full disclosure of the true and limited jurisdiction of this court. Any failure or refusal to disclose the true jurisdiction is a violation of 15 Statutes at Large, Chapter 249 (section 1), enacted July 27, 1868,—"An Act concerning the rights of American Citizens in foreign States." This document is and has been on the record in the instant matter as the foundation and companion for the Act of OATH PURGATORY that expatriated this Affiant from the corporate jurisdiction being asserted.

Whereas the Affiant, being an America Citizen, as well as a belligerent claimant, hereby claims the right of immunity inherent in the 11th amendment. The judicial power shall not be construed to extend to any suit in law or equity, commenced or prosecuted by a Foreign State. This court, by definition a FOREIGN STATE, is misusing the name of this Sovereign America Citizen by placing it in all capital letters, signifying an ens legis, or "Strawman".thus misusing Affiants last name, and referring to Affiant, erroneously, as a "person," which is a "term of art" meaning a creature of the law, an artificial being, and a CORPORATION.: "*Ens Legis. L. Lat. A creature of the law; an artificial being, as contrasted with a natural person. Applied to corporations, considered as deriving their existence entirely from the law.*"—Blacks Law Dictionary, Fourth Edition, 1951.

All complaints and suits against such CORPORATION or ens legis fall under the aforementioned FSIA and service of process must be made by the clerk of the court, under section 1608(a)(4) of title 28, United States Code, 63 Stat. 111, as amended (22 U.S.C. 2658) [42 FR 6367, Feb. 2, 1977, as amended at 63 FR 16687, Apr. 6, 1998], to the Director of the Office of Special Consular Services in the Bureau of Consular Affairs, Department of State, in Washington, D.C., exclusively, pursuant to 22 CFR §§93.1 and 93.2. A copy of the FSIA must be filed with the complaint along with "a certified copy of the diplomatic note of transmittal;" and, "the certification shall state the date and place the documents were delivered." The foregoing must be served upon the Chief Executive Officer and upon the Registered Agent of the designated CORPORATION or FOREIGN STATE. MUNICIPAL, COUNTY, OR STATE COURTS lack jurisdiction to hear any case under the definition of FOREIGN STATE and under all related definitions below. Said jurisdiction lies with the "district court of the United States," established by Congress in the states under Article III of the Constitution, which are "constitutional courts" and has not included the territorial courts created under Article IV, Section 3, Clause 2, which are "legislative" courts. *Hornbuckle v. Toombs*, 85 U.S. 648, 21 L.Ed. 966 (1873), (See Title 28 USC, Rule 1101), exclusively, under the FSIA Statutes pursuant to 28 USC §1330. It is an undisputed, conclusive presumption that the above-mentioned real party in interest is a not a CORPORATION who is not registered

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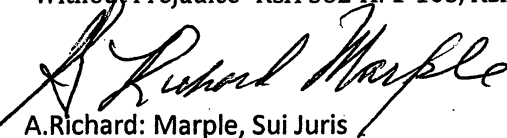
NH CIRCUIT COURT  
11100028 P 39

with any Secretary of State as a CORPORATION. Pursuant to Rule 12(b)(6), the Prosecuting Attorney has failed to state a claim for which relief can be granted. This is a FATAL DEFECT, and, therefore, the instant case and all related matters must be DISMISSED WITH PREJUDICE for lack of in personam, territorial and subject matter jurisdiction, as well as for improper Venue; and, pursuant to the 11th amendment. Moreover, the process in the above-captioned case is not "regular on its face." Regular on its face Process is said to be "regular on its face" when it proceeds from the court, officer, or judicial authority of law to issue process of that nature, and which is legal in form, and contains nothing to notify, or fairly apprise any one that it is issued without authority." The record will show that the Affiant demanded and was denied the procedural "DUE PROCESS" enumerated in Article 15 Part II, New Hampshire Bill of Rights. RSA382-A-3-501 requires that an "instrument", signed by this Affiant to be a lawful contract and basis for any claim. No such "instrument:" is upon the record. The photo ID purchased has imbedded under the plastic following this Affiants signature the letters "TDC", signifying, "Threat, Duress, and Coercion" hence not a meeting of the minds and not a valid contract. Affiant, pursuant to 18 USC 4 Placed upon the record the felony, 18 USC 2071 committed by public servant, David G. LaFrancois, together with a copy of the document establishing the unlawful act. Affiant has not received a written acknowledgment confirming the action the law provides as necessary. Whereas Affiant placed as evidence of Cognovit, all unrebutted Affidavits recorded by the Secretary of State together with Affiants counter claim for damages is presumed innocent of all charges, aspects, presumptions and assumptions of claims made by the unknown accuser.

Whereas there is No Lawful money in circulation there can be NO substantive contribution or consideration to create a contract. The STATE OF NEW HAMPSHIRE is a bankrupt, private, foreign corporation, where it's principal is the Crown, who would never admit the bankruptcy, nor arrive as the injured party at a hearing or trial. There MUST be an international contract for Admiralty jurisdiction, and there must be an injured party for Common Law to prevail with the application for the 7<sup>th</sup> Amendment. Any Contract should consist of These Six Elements: (#1)\*offer by a person qualified to make a contract; (#2)\*acceptance by a party qualified to make and accept the contract; \*bargain or agreement. (#3) full disclosure and complete understanding by both parties; (#4)\*consideration (conscionable) given; (#5) \*must have the element of time to make the contract lawful; (#6)\*both parties must be sui juris, that is of lawful age, twenty-one years or older. The follow govern all contracts: Contractus legem ex conventionem accipiunt. The agreement of the parties makes the law of the contract. Dig. 16, 3, 1, 6; Contractus ex turpi caus, vel contr bonos mores nullus est. A contract founded on a base and unlawful consideration, or against good morals, is null. Hob. 167; Dig. 2, 14, 27, 4.

This affidavit complies with all known rules of evidence Rule 301 FRCP & Rule 36 FRCP. It is understood to be accurate with known FACTS and stare decisis as unconditionally proved. There is an express stipulation that silence and failure to rebut, point for point, for all issues and stare decisis expressed herein within 15 days from the date "stamped received" by the Secretary of State Office for recording; will be understood as a confession and acceptance, as well as tacit acquiescence of all FACTS herein enumerated. The doctrine of estoppels will automatically toll and prevail, pursuant to; Carmen v. Bowen, 64 A.932 (1906) "*Government officers and agents are required to affirmatively prove whatever authority they claim. In the absence of proof, they may be held personally accountable for loss, injury and damages*". Ryder v United States, 115 S. Ct. 2031, 132 L.Ed.2d 136, 515 U.S. 177, "*Failure to contest an assertion ... is considered evidence of acquiescence*". US Supreme Court, Mitchell v. United States - No. 97-7541 (Dec. 9, 1998) ; "*For purposes of this subdivision an evasive or incomplete disclosure, answer, or response is to be treated as a failure to disclose, answer, or respond*" 85 Cunningham v. Hamilton County No. 98-727, 527 U.S. 198 All rights Reserved. None waived. This Affidavit consists of three pages.

"Without Prejudice" RSA 382-A: 1-103, RSA 382-A: 1-308.; U.C.C 1-103, U.C.C. 1-308

  
A. Richard: Marple, Sui Juris  
11 Dartmouth Street  
Hooksett, New Hampshire Republic

Subscribed and sworn to as the truth before me, a Notary Public  
In and for the State of New Hampshire, County of Merrimack  
This 28 day of MARCH in the year of our Lord 2017 A.D.  
Purpose of Notary is for identification only and not for entrance  
To any Foreign jurisdiction

  
NOTARY PUBLIC JURAT

My Commission Expires MAY 23, 2017

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MAR 28 2017

NEW HAMPSHIRE  
DEPARTMENT OF STATE

KeyCite Yellow Flag - Negative Treatment  
Distinguished by Indianapolis Car Exchange, Inc. v. Alderson,  
Ind.App., August 5, 2009

108 N.H. 386  
Supreme Court of New Hampshire.

NATIONAL SHAWMUT BANK OF BOSTON

v.  
Victor L. JONES.

No. 5644. | Argued Nov. 7,  
1967. | Decided Dec. 29, 1967.

Action of replevin by bank to recover possession of an automobile. The trial court, Leahy, C.J., transferred the case without ruling on certain questions. The Supreme Court, Grimes, J., held that defendant purchaser of automobile would not take free of bank's security interest under statute relating to protection of buyers of goods even if he purchased for his own personal, family or household purposes, which was a fact not agreed upon, since, prior to the purchase, the bank filed a financing statement.

Remanded.

**U.C.C. HAS SUPERIOR  
AUTHORITY AS THERE IS NO  
LAWFUL MONEY CIRCULATING**

West Headnotes (6)

[1] Secured Transactions  
⇒ Consumer Goods

Since original purchaser of automobile bought it for personal family or household purposes, the automobile would be classified as "consumer goods". RSA 382-A:9-109.

1 Cases that cite this headnote

[2] Secured Transactions  
⇒ Operation and Effect of Filing

Security interest of plaintiff bank in automobile was perfected by filing the financing statement with the town clerk of locality where original purchaser resided, which interest would generally continue when the collateral was sold without bank's consent. RSA 382-A:9-306(2), 382-A:9-307(1), 382-A:9-401(1) (a).

Cases that cite this headnote

[3] Secured Transactions

⇒ Buyers of Goods, Protection Against Perfected Security Interests

Since defendant purchaser of automobile bought it in good faith without knowledge that sale to him was in violation of security interest of plaintiff bank, and automobile was purchased in the ordinary course from a person in the business of selling automobiles, defendant was a "buyer in the ordinary course of business", but he would take free only of a security interest created by his seller, and where bank's security interest was not created by defendant's seller defendant did not take free of bank's security interest under statute relating to protection of buyers of goods. RSA 382-A:1-201(9), 382-A:9-307(1).

20 Cases that cite this headnote

[4] Secured Transactions

⇒ Buyers of Goods, Protection Against Perfected Security Interests

Defendant purchaser of automobile would not take free of bank's security interest under statute relating to protection of buyers of goods even if he purchased for his own personal, family or household purposes, which was a fact not agreed upon, since prior to the purchase, the bank filed a financing statement. RSA 382-A:9-307(2).

13 Cases that cite this headnote

[5] Secured Transactions

⇒ Statutory Provisions

Court had no leeway to create any other exception to dictates of the Uniform Commercial Code and, in action by bank against purchaser of automobile, no custom, usage or agreement was brought to court's attention which would permit it to do so. RSA 382-A:1-102(2), 382-A:9-360(2).

1 Cases that cite this headnote

[6] Secured Transactions

Buyers of Goods, Protection Against  
Perfected Security Interests

A security interest in case of a sale without consent may be impaired only as provided in statute relating to secured transactions, and is unaffected by statute relating to rights of seller's creditors against sold goods. RSA 382-A:2-402, 382-A:2-403(1), 382-A:9-101 et seq.

8 Cases that cite this headnote

\*387 \*\*484 Action of replevin to recover possession of a 1964 Dodge Dart '270' station wagon. \*\*485 Defendant's motion for custody under RSA 536:5 was granted upon his filing a bond in the amount of \$2,000.00 to secure payment of any judgment which might be rendered against him. According to an agreed statement of facts, Robert D. Wever of Hampton, New Hampshire, purchased the Dart from Wentworth Motor Company Inc. of Exeter on February 15, 1965 under a conditional sale contract for personal, family or household purposes. He executed a 'Retail Installment Contract' which was assigned by Wentworth to the plaintiff. This contract was filed with the Town Clerk of Hampton pursuant to RSA 382-A:9-401 on February 24, 1965. Sometime thereafter, without the consent of the plaintiff, Wever traded or sold the Dart to Hanson-Rock Inc. of Hampton, an automobile dealer in the business of selling new and used cars to the public. RSA 382-A:1-201(9). Defendant, a resident of Hampton, purchased the Dart from Hanson-Rock on April 8, 1966 for good and sufficient consideration in good faith and without any actual knowledge of any security interest of the plaintiff or anyone else. Neither the defendant nor the Hampton National Bank from which he borrowed the purchase price examined or searched for any filing in the office of the town clerk. (It was agreed at argument that unless a search was made under the name Wever, the Retail Installment Contract could have been found only by examining all such contracts for the serial number of the vehicle.) An unpaid balance of \$1,490.17 is still due under the installment contract.

The following questions were transferred without ruling by Leahy, C.J.:

1. Whether the defendant is liable to the plaintiff in the amount of \$1,490.17, the amount outstanding under the Retail Installment Contract executed by Robert Wever in favor of

Wentworth Motors, Inc., and subsequently assigned to the plaintiff.

2. Whether under the provisions of the Uniform Commercial Code in New Hampshire (RSA 382-A) a buyer in ordinary course of business takes free of a perfected security interest created by a person other than the seller from whom the buyer purchased the goods.

Attorneys and Law Firms

Perkins, Holland & Donovan and William Beckett, Exeter, for plaintiff.

\*388 William W. Treat and Robert G. Tetler, Hampton, for defendant.

Opinion

GRIMES, Justice.

[1] [2] Since Wever purchased for personal, family or household purposes, the Dart is classified as consumer goods. RSA 382-A:9-109. The plaintiff's security interest was perfected by filing the financing statement with the Town Clerk of Hampton where Wever resided, (RSA 382-A:9-401 and continues when the collateral is sold without its consent as was the case here unless Article 9 provides otherwise. RSA 382-A:9-306(2). In the case of buyers of goods, Article 9-307(1) does provide otherwise in certain instances, as follows:

'A buyer in ordinary course of business (subsection (9) of Section 1-201) other than a person buying farm products from a person engaged in farming operations takes free of a security interest created by his seller even though the security interest is perfected and even though the buyer knows of its existence.'

[3] [4] [5] Since defendant purchased in good faith without knowledge that the sale to him was in violation of the security interest of another and bought in the ordinary course from a person in the business of selling automobiles, he was a 'buyer in the ordinary course of business.' RSA 382-A:1-201(9). However, s. 307(1) permits him to take free only of 'a security interest created by his seller.' The security interest of the plaintiff was not created by Hanson-Rock, Inc., the defendant's seller, but by Wentworth Motor Co., Inc. Defendant, \*\*486 therefore, does not take free of the

plaintiff's security interest under this section. Neither does he take free of the security interest by reason of the provisions of s. 307(2) relating to consumer goods even if he purchased for his own personal, family or household purposes (a fact not agreed upon) because 'prior to the purchase, the secured party \* \* \* filed a financing statement \* \* \*.' These are the only two provisions of Article under which a buyer of goods can claim to take free of a security interest where a sale, exchange or other disposition of the collateral was without the consent of the secured party. The defendant does not benefit from either one. Article 9-306(2) gives the court no leeway to create any other exceptions to its dictates and no custom, usage or agreement has been brought to our attention which would permit us to do so. RSA 382-A:1-102(2). See *Lincoln Bank & Trust Co. v. Queenan*, 344 S.W.2d 383 (Ky.).

\*389. Defendant contends that RSA 382-A:2-403(1) provides an escape from plaintiff's security interest when it provides '\* \* \* a person with a voidable title has power to transfer a good title to a good faith purchaser for value. \* \* \*'  
[6] The contention has two answers. Article 9-306(2) provides for the continuance of the security interest 'except

when this Article provides otherwise,' thereby limiting any exceptions to those contained in Article 9; and Article 2-403 itself provides that the rights of 'lien creditors are governed by the Articles on Secured Transactions (Article 9) \* \* \*.' See also, Article 2-402 which provides '(3) Nothing in this article shall be deemed to impair the rights of creditors of the seller (a) under the provisions of the Article on Secured Transactions (Article 9) \* \* \*.' It is clear, therefore, that a security interest in the case of a sale without consent was to be impaired only as provided in Article 9 and is unaffected by Article 2-402.

Our answer to question 1 is in the affirmative and to question 2 is in the negative.

Remanded.

All concurred.

All Citations

108 N.H. 386, 236 A.2d 484, 4 UCC Rep.Serv. 1021

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**THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH  
NH CIRCUIT COURT**

6th Circuit - District Division - Concord  
32 Clinton Street  
Concord NH 03301

Telephone: 1-855-212-1234  
TTY/TDD Relay: (800) 735-2964  
<http://www.courts.state.nh.us>

**NOTICE OF HEARING**

**A MARPLE  
11 DARTMOUTH ST  
HOOKSETT NH 03106**

*NOT ACCEPTED AND  
RETURNED PURSUANT  
TO AND BY AUTHORITY  
OF RSA 382A: 3-501  
AND CLEAR FIELD DOCTRINE  
KINDLY PRODUCE THE  
"INSTRUMENT"*

Case Name: **State v. A Marple**  
Case Number: **429-2014-CR-00153**

The above referenced case(s) has/have been scheduled for:  
**Trial**

<u>Charge ID</u>	<u>Statute</u>	<u>Description</u>
885357C	263:12	Prohibitions re: Drivers License
885358C	263:64	Drive after Rev/Sus

"WITHOUT PREJUDICE" RSA 382-A:1-308,  
RSA 382-A:1-103, UCC 1-103, UCC 1-308.

**Date: April 18, 2017**  
**Time: 12:45 PM**

**32 Clinton Street  
Concord NH 03301**

*A. P. Marple*  
*3/24/17*

If you are unable to appear at this scheduled hearing, you must request a continuance from the Court in writing at least 10 days in advance of the hearing date. You must also send a copy of the request to the opposing party, unless restricted from doing so. Motions to continue filed fewer than 10 days in advance of hearing will only be granted if the Court finds that an emergency or exceptional circumstance exists. You must appear on the scheduled date unless you receive notification from the Court that a request to continue the hearing has been granted. **FAILURE TO APPEAR OR PROPERLY OBTAIN A CONTINUANCE FROM THE COURT MAY RESULT IN AN ORDER FOR YOUR ARREST.**

When a person pleads guilty/nolo or is convicted after trial, the court expects all fines imposed to be paid in full on the date of the hearing. Multiple cases are scheduled at this time. Please notify the court 15 days prior to the hearing date above if the hearing is expected to last longer than 30 minutes.

**NOTICE OF APPELLATE RIGHTS**

A person convicted of a violation level offense or a class B misdemeanor has the right to appeal the decision of the District Division by filing an appeal with the New Hampshire Supreme Court. This appeal is only on questions of law which means that the Supreme Court will not consider questions of fact already decided by the District Division. With limited exceptions, the person convicted has 30 days from the date of sentencing to file an appeal with the Supreme Court.

A person convicted of a class A misdemeanor has the right to appeal the decision of the District Division to the Superior Court and to have a trial by jury. The person convicted must notify the District Division of the intent to appeal within 72 hours of sentencing.

If you will need an interpreter or other accommodations for this hearing, please contact the court immediately. Please be advised (and/or advise clients, witnesses, and others) that it is a Class B felony to carry a firearm or other deadly weapon as defined in RSA 625.11, V in a courtroom or area used by a court.

March 09, 2017

Theresa A. McCafferty  
Clerk of Court

C: Epsom Police Department; Marianne P. Ouellet, ESQ

# **Governments Have Descended to the Level of Mere Private Corporations**



*Supreme Court Building*

## **Clearfield Doctrine**

Supreme Court Annotated Statute, *Clearfield Trust Co. v. United States* 318 U.S. 363-371 1942

Whereas defined pursuant to Supreme Court Annotated Statute: *Clearfield Trust Co. v. United States* 318 U.S. 363-371 1942: "Governments descend to the level of a mere private corporation, and take on the characteristics of a mere private citizen . . . where private corporate commercial paper [Federal Reserve Notes] and securities [checks] is concerned . . . For purposes of suit, such corporations and individuals are regarded as entities entirely separate from government."

What the Clearfield Doctrine is saying is that when private commercial paper is used by corporate government, then government loses its sovereignty status and becomes no different than a mere private corporation.

As such, government then becomes bound by the rules and laws that govern private corporations which means that if they intend to compel an individual to some specific performance based upon its corporate statutes or corporation rules, then the government, like any private corporation, must be the holder-in-due-course of a contract or other commercial agreement between it and the one upon who demands for specific performance are made.

And further, the government must be willing to enter the contract or commercial agreement into evidence before trying to get the court to enforce its demands, called statutes.

This case is very important because it is a 1942 case that was decided after the UNITED STATES CORPORATION COMPANY filed its "CERTIFICATE OF INCORPORATION" in the State of Florida (July 15, 1925). And it was decided AFTER the 'corporate government' agreed to use the currency of the private corporation, the FEDERAL RESERVE. The private currency, the Federal Reserve Note, is still in use today.

WITHOUT PREJUDICE RSA 382-A-1-308  
RSA 382-A-1-103, UCC 1-103, UCC 1-308

*A.R. Morple*  
3/28/17



# THE STATE OF NEW HAMPSHIRE

## JUDICIAL BRANCH

### NH CIRCUIT COURT

MERRIMACK COUNTY

6TH CIRCUIT - DISTRICT DIVISION - CONCORD

State of New Hampshire

v.

A.R. Marple

Docket No. 429-2014-CR-00153

"PRODUCE THE INSTRUMENT"

FURTHER ORDER ON JURISDICTION

THE CLEARFIELD DOCTRINE PREVAILS

3/28/17  
A.R. Marple  
"WITHOUT PREJUDICE" RSA 382-A:1-308,  
RSA 382-A:1-103, UCC 1-103, UCC 1-308.

NOT ACCEPTED AND  
RETURNED FOR  
CORRECTIONS PURSUANT  
TO AUTHORITY OF  
RSA 382-A:3-501

The accused, A.R. Marple, has been charged with Driving after Suspension and Driver's License Prohibition.

At Mr. Marple's Case Status Hearing on December 19, 2016, he raised additional challenges to the Court's jurisdiction, so a Further Hearing was scheduled for January 13, 2017.

At the Hearing on January 13, 2017, Mr. Marple was given another opportunity to argue his position with respect to the jurisdiction of the Court. At this Hearing and in the written documents he submitted to the Court, Mr. Marple maintains that he is an American citizen, is his own "sovereign," and that he has a Constitutional right to travel on New Hampshire roadways without a license. Mr. Marple cited case law from a number of other jurisdictions, including from the State of Washington in State v. City of Spokane, 186 P. 864 (1920), to support his position that individuals have the right to use the roadways for their personal use, "in the ordinary course of life," and that it is only motor vehicles used for commercial purposes that are subject to governmental regulation, because they are using the roads in the course of their business, not in the ordinary course of life.

While the Court appreciates Mr. Marple's arguments and reasoning, the Court rules that the Court does have jurisdiction over these matters, based upon the United States Constitution, the New Hampshire Constitution, New Hampshire State law, and New Hampshire case law.

As a starting point, Section 1 of the 14<sup>th</sup> Amendment to the United States Constitution states, in part, that "all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside..." Additionally, the United States Constitution, 10<sup>th</sup> Amendment, states that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the public." The United States Supreme Court has also ruled that a state may prescribe uniform regulation. Hendrick v. Maryland, 235 U.S. 610 (1915).

Further, Part II, Article V of the New Hampshire Constitution gives the New Hampshire General Court the power to make laws. Therefore, the motor vehicle laws enacted by the New Hampshire General Court, including the requirement that individuals must have a valid driver's license in order to drive on New Hampshire roadways, are valid and may be enforced.

The New Hampshire Supreme Court has also consistently ruled that the operation of an automobile upon a public highway is not a right, but "...only a privilege which the state may grant or withhold at pleasure...." State v. Sterrin, 78 N.H. 220, 222 (1916), citing Comm.v. Kingsbury, 199 Mass. 542. The Court, in State v. Sterrin, at 222, also cited State v. Corron, 73 N.H. 434, 446 (1905), which references a liquor licensee, by stating: "The statute confers a privilege which the citizen is at liberty to accept by becoming a licensee, or not, as he pleases. Having accepted the privilege, he cannot object to any conditions which have been attached thereto by a grantor with power to entirely withhold the privileges."

In the Opinion of the Justices, 102 N.H. 183 (1959), the New Hampshire Supreme Court once again upheld the right to require driver's licenses in the State of New Hampshire. In this Decision, the Court did also say: "To the extent that a motor vehicle license may be more than a privilege it is nevertheless subject to regulation under the police power." See: also, Rosenblum v. Griffin, 89 N.H. 314, 318 (1938); State v. Wood, 98 N.H. 418 (1953); Opinion of the Justices, 94 N.H. 501 (1947), and RSA 263:12, RSA 263:64, and RSA 625:9.

Having found that the motor vehicle laws enacted by the New Hampshire General Court are valid, the Court now turns to the question of whether the New Hampshire Circuit Court, 6<sup>th</sup> Circuit – District Division – Concord, has jurisdiction over these matters. The Court finds that it does, pursuant to Part I, Article 17; Part I, Article 4; and Part II, Article 72-a of the New Hampshire Constitution, and as enumerated in RSA 490-F and RSA 502-A.

Because the Court finds that it properly has jurisdiction, the Clerk shall schedule these matters for Trial.

So Ordered.

February 21, 2017

Date

*M. Kristin Spath*  
Hon. M. Kristin Spath, Judge

NOTE: ALL OF THE STARE DECISIS ENCIRCLED IN RED HAS BEEN OVERRULED BY JUDGE GRIMES'S CONFIRMATION IN 108 N.H. 386, (12/29/67) THAT THE "AUTOMOBILE" IS CLASSIFIED AS "CONSUMER GOODS" PURSUANT TO RSA 382-A:9-109. NO STATUTE IS RECORDED AFTER DECEMBER 29, 1967 THAT REQUIRES LICENSE & REGISTRATIONS FOR "CONSUMER GOODS"

"WITHOUT PREJUDICE" RSA 382-A:1-308,  
RSA 382-A:1-103, UCC 1-103, UCC 1-308.

*A.R. Marple*

State of New Hampshire  
v.  
A.R. Marple, Defendant  
Docket No. 429-2014-CR-00153

3/28/17

## 947 Fiduciary Duty

QUERY: Whether a fiduciary duty or relationship is a necessary ingredient to frauds relating to intangible property rights. *See generally* Laura A. Eilers & Harvey B. Silikovitz, *Mail and Wire Fraud*, 31 Am. Crim. L. Rev. 703, 706 n. 19 (1994) ("Unlike traditional frauds which may arise regardless of the relationship between the defendant and the victim, **frauds related to intangible rights stem from a fiduciary relationship between the defendant and the defrauded party or entity.**"). "At the core of the judicially defined 'scheme to defraud' is the notion of a trust owed to another and a subsequent breach of that trust." *United States v. Lemire*, 720 F.2d 1327, 1335 (D.C. Cir. 1983) ("But '[n]ot every breach of a fiduciary duty works a criminal fraud.'" (quoting *United States v. George*, 477 F.2d 508 (7th Cir.), *cert. denied*, 414 U.S. 827 (1973)), *cert. denied*, 467 U.S. 1226 (1984). *But cf. United States v. Sawyer*, 878 F. Supp. 279, 288-90 (D. Mass. 1995) (mail fraud statutes do not require that a public fiduciary be a participant in the scheme). **It may follow that to defraud one of the "right to honest services" would generally require a fiduciary relationship that creates the right to provide or protect honest services. It does not necessarily follow, however, that the existence or protection of an intangible property right must depend upon the existence of a fiduciary relationship or duty.** Nonfiduciaries can steal, embezzle and defraud others of property interests, regardless of whether the property interest is tangible or intangible. *Cf. United States v. Allen*, 554 F.2d 398, 410 (10th Cir.) ("**While the existence of a fiduciary duty is relevant and an ingredient in some mail fraud prosecutions, . . . it is not an essential in all such cases.**") (citations omitted), *cert. denied*, 434 U.S. 836 (1977); Eilers & Silikovitz, 31 Am. Crim. L. Rev. at 711 ("There is some debate in the Circuit Courts about whether intangible rights can be violated if they are not premised upon fiduciary duty.").

**Courts have held nonfiduciaries criminally liable for frauds related to intangible rights when a co-schemer or co-conspirator was a fiduciary. *See United States v. Alexander*, 741 F.2d 962, 964 (7th Cir. 1984) (an intangible rights scheme is cognizable when at least one of the schemers has a fiduciary relationship with the defrauded person or entity), *overruled on other grounds by, United States v. Ginsburg*, 773 F.2d 798 (7th Cir. 1985), *cert. denied*, 475 U.S. 1011 (1986); *see also Sawyer*, 878 F. Supp. at 289 (describing situation of nonfiduciary) (citing *United States v. Margiotta*, 688 F.2d 108, 121-23 (2d Cir. 1982), *cert. denied*, 461 U.S. 913 (1983), and *Alexander*, 741 F.2d at 964).**